

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11	UNITED STATES OF AMERICA,)	Magistrate Case No. 07MJ8801
12)	
	Plaintiff,)	
13)	
	v.)	FINDINGS OF FACT AND
14	Juan HERNANDEZ-Rojas,)	ORDER OF DETENTION
15)	
	Defendant.)	
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17 In accordance with § 3142(f) of the Bail Reform Act of 1984 (18 U.S.C. § 3141 et seq.), a
18 detention hearing was held on September 25, 2007, to determine whether defendant Juan
19 HERNANDEZ-Rojas, should be held in custody pending trial on the grounds that he is a flight risk.
20 Assistant U. S. Attorney John F. Weis appeared on behalf of the United States; Diane Regan, of Federal
21 Defenders of San Diego, Inc., appeared on behalf of the Defendant.

22 Based on the evidence proffered by the United States and the Defendant, the pretrial services
23 report, and the criminal complaint issued against the Defendant on September 20, 2007, by this Court,
24 the Court concludes that the following facts establish by a preponderance of the evidence that no
25 condition or combination of conditions will reasonably assure the appearance of the Defendant required.

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I

FINDINGS OF FACTA. Nature and Circumstances of the Offense Charged (18 U.S.C. §3142(G)(1))

1. The Defendant is charged in Criminal Complaint No. 07MJ8801 with the importation of 4.94 kilograms (10.87 pounds) of methamphetamine and 11.48 kilograms (25.26 pounds) of cocaine, in violation of 21 U.S.C. §§ 952 and 960. Therefore, probable cause exists to believe the Defendant committed the charged offense.

2. The charged offense is an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Uniform Controlled Substances Act (21 U.S.C. § 801 et seq.). Thus, there arises a presumption that no condition or combination of conditions will reasonably assure the appearance of the Defendant as required. See 18 U.S.C. § 3142(e).

3. The offense carries with it a minimum mandatory 10 year sentence and a maximum life sentence. See 21 U.S.C. § 960(b)(1)(B). According to the United States Sentencing Guidelines, the Base Offense level is 36. See USSG § 2D1.1. Assuming the Defendant's criminal history score places him in Criminal History Category I, See USSG § 4A1.1., the sentencing range for the Defendant is 188-235 months in prison.

B. Weight of the Evidence Against the Defendant (18 U.S.C. § 3142(g)(2))

1. The weight of the evidence against the Defendant is strong. On September 19, 2007, at the Calexico West Port of Entry, the Defendant was the driver and registered owner of a 2006 Toyota Corolla as he entered the United States from Mexico. Customs & Border Protection Officer J. Jones with his Narcotic Detector Dog (NDD) was conducting pre-primary inspections. The NDD alerted to the vehicle. The Defendant was escorted to the secondary inspection area for further inspection. In the vehicle secondary inspection area, the Defendant claimed 6-month-vehicle ownership. Further inspection of the vehicle revealed 4.94 kilograms (10.87 pounds) of methamphetamine and 11.48 kilograms (25.26 pounds) of cocaine concealed within the rocker panels. The Defendant admitted knowledge of the drugs found in the vehicle but he stated he did not know what kind of narcotics. The Defendant stated he was going to be paid \$1,500.00 to cross the vehicle into the United States.

1 C. History and Characteristics of the Defendant (18 U.S.C. § 3142(G)(3))

- 2 1. The Defendant is a citizen of Mexico.
- 3 2. The Defendant resides in Mexicali, Baja California, Mexico.
- 4 3. The Defendant is a Resident Alien of the United States but is in danger of losing
- 5 his immigration status if convicted of this offense.
- 6 4. The Defendant stated he uses methamphetamine and he last used
- 7 methamphetamine on the morning of September 19, 2007.

8 D. Nature and Seriousness of Danger Posed by Release (18 U.S.C. § 3142(g)(4))

- 9 1. Other than that the charged crime is a drug trafficking offense, there is nothing
- 10 to suggest that release of the Defendant would pose a danger to any person or the community.

11 II

12 REASONS FOR DETENTION

13 A. There is probable cause to believe that the Defendant committed the offense charged

14 in Criminal Complaint No. 07MJ8801, namely, the importation of 4.94 kilograms (10.87 pounds) of

15 methamphetamine and 11.48 kilograms (25.26 pounds) of cocaine into the United States in violation of

16 21 U.S.C. §§ 952 and 960. The Defendant has the following criminal history:

17 02/09/04 - 8 U.S.C. § 1324 - Prosecution Declined

18 04/10/07 - 22349(A) VC Exceed maximum 60 MPH Limit - Disposition Unknown

19 B. The Defendant faces a substantial period of time in custody if convicted of the offense

20 charged in the Complaint. He therefore has a strong motive to flee.

21 C. The Defendant has not rebutted the presumption, based upon the Court's findings that

22 there is probable cause to believe that the Defendant committed an offense for which a maximum term

23 of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. § 801

24 et seq.), that no condition or combination of conditions will reasonably assure the appearance of the

25 Defendant at future court proceedings.

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III

ORDER

IT IS HEREBY ORDERED that the Defendant be detained pending trial in this matter.


IT IS FURTHER ORDERED that the Defendant be committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The Defendant shall be afforded reasonable opportunity for private consultation with counsel.

While in custody, upon order of a court of the United States or upon the request of an attorney for the United States, the person in charge of the correctional facility shall deliver the Defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding or any other appearance stipulated to by defense and government counsel.

THIS ORDER IS ENTERED WITHOUT PREJUDICE.

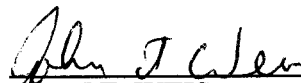
IT IS SO ORDERED.

DATED: 10-1-07.


PETER C. LEWIS
UNITED STATES MAGISTRATE JUDGE

Prepared by:

KAREN P. HEWITT
United States Attorney


JOHN F. WEIS
Assistant U. S. Attorney

cc: Diane Regan
Federal Defenders of San Diego, Inc.